



IT IS ORDERED

Date Entered on Docket: September 25, 2018

The Honorable David T. Thuma  
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

In re:

CONNIE SUE GOLDNER

Case No. 7-18-11936-TL

Debtor.

**STIPULATED ORDER GRANTING BANK OF AMERICA, N.A. RELIEF FROM  
AUTOMATIC STAY AND ABANDONMENT OF PROPERTY BY BANK OF AMERICA, N.A.  
LOCATED AT 358 STEWART STREET HUBBARD, OHIO 44425**

This matter came before the Court on the Motion for Relief from Automatic Stay for the Abandonment of Property to Bank of America, N.A., filed on August 27, 2018, (DOC 10) (the “Motion”) by Bank of America, N.A. (“Bank of America, N.A.”). The Court, having reviewed the record and the Motion, and being otherwise sufficiently informed, FINDS:

(a) On, Bank of America, N.A. served the Motion and a notice of the Motion (the “Notice”) on Peter A. Keys, Attorney for Debtor and Clarke C. Coll, (the “Trustee”) by use of the Court’s case management and electronic filing system for the transmission of notices, as authorized by Fed.R.Civ.P. 5(b)(3) and NM LBR 9036-1, and on the Debtor Connie Sue Goldner, by United States first class mail, in accordance with Bankruptcy Rules 7004 and 9014.

(b) The Motion relates to the property located at 358 Stewart Street Hubbard, Ohio 44425, more fully described as:

PARCEL NO. ONE

SITUATED IN THE CITY OF HUBBARD, COUNTY OF TRUMBULL AND STATE OF OHIO: AND KNOWN AS BEING LOT NUMBER 1525 AS LOTS ARE NOW NUMBERED IN SAID CITY AND AS SHOWN BY A PLAT RECORDED IN VOLUME 13 OF PLATS, PAGE 14, TRUMBULL COUNTY RECORDS. SAID LOT NUMBER 1525 HAS A FRONTAGE OF 50 FEET ON THE WEST LINE OF STEWART AVENUE AND EXTENDS BACK OF EVEN WIDTH 150 FEET.

PARCEL NO. TWO

SITUATED IN THE CITY OF HUBBARD, COUNTY OF TRUMBULL AND STATE OF OHIO: AND KNOWN AS BEING PART OF LOT NUMBER 2897 OF A PLAT OF LOTS LAID OUT BY WILLIAM WOLF MAY 12, 1927 AND RECORDED IN TRUMBULL COUNTY RECORDS OF PLATS VOLUME 13, PAGE 14. BEING THE SOUTHERLY 10 FEET OF SAID LOT NO. 1526 AS SHOWN ON VILLANO RE-PLAT OF LOT NUMBERS 2897 AND 1537 OF THE WOLF SUBDIVISION RECORDED CURRENTLY WITH THIS CONVEYANCE; FRONTING 10 FEET ON THE WEST SIDE OF STEWART AVENUE, AND EXTENDING WESTERLY A DEPTH OF 149.69 FEET ON ITS SOUTHERLY BOUNDARY AND 149.64 FEET ON ITS NORTHERLY BOUNDARY, AS SHOWN BY SAID RE-PLAT RECORDED IN PLAT VOLUME 31, PAGE 49.

ALSO KNOWN AS: 358 STEWART STREET, HUBBARD, OHIO 44425

including any improvements, fixtures, and attachments, such as, but not limited to, mobile homes (the "Property"). If there is a conflict between the legal description and the street address, the legal description shall control.

- (c) The Notice provided for an objection deadline of 21 days from the date of service of the Notice, to which three days was added pursuant to Bankruptcy Rule 9006(f);
- (d) The Notice was sufficient in form and content;
- (e) The objection deadline expires on September 21, 2018;
- (f) The parties Stipulate to the relief requested herein;

(g) The Motion is well taken and should be granted as provided herein; and

(h) By submitting this Order to the Court for entry, the undersigned counsel for Bank of America, N.A. certifies under penalty of perjury that, on the date this Order was presented Rose L. Brand & Associates, P.C. searched the data banks of the Department of Defense Manpower Data Center (“DMDC”), and found that the DMDC does not possess any information indicating that the Debtor is currently on active military duty of the United States.

IT IS THEREFORE ORDERED:

1. Pursuant to 11 U.S.C. §362(d), Bank of America, N.A. and any and all holders of liens against the Property, of any lien priority, are hereby are granted relief from the automatic stay:

(a) To enforce its rights in the Property, including foreclosure of liens and a foreclosure sale, under the terms of any prepetition notes, mortgages, security agreements, and/or other agreements to which Debtor is a party, to the extent permitted by applicable non-bankruptcy law, such as by commencing or proceeding with appropriate action against the Debtor or the Property, or both, in any court of competent jurisdiction; and

(b) To exercise any other right or remedy available to it under law or equity with respect to the Property.

2. The Trustee is deemed to have abandoned the Property from the estate pursuant to 11 U.S.C. §554 as of the date of entry of this Order, and the Property therefore no longer is property of the estate. As a result, Bank of America, N.A. need not name the Trustee as a defendant in any state court action it may pursue to foreclosure liens against the Property and need not notify the Trustee of any sale of the Property.

3. The automatic stay is not modified to permit any act to collect any deficiency or other obligation as a personal liability of the Debtor, in the event that a discharge order is entered. The Debtor can be named as a defendant in litigation to obtain judgment or to repossess the Property in accordance with applicable non-bankruptcy law, pursuant to any discharge order entered.

4. This Order does not waive Bank of America, N.A.'s claim against the estate for any deficiency owed by the Debtor after any foreclosure sale or other disposition of the Property. Bank of America, N.A. may file an amended proof of claim in this bankruptcy case within thirty (30) days after a foreclosure sale of the Property, should it claim that Debtor owes any amount after the sale of the Property.

5. This Order shall continue in full force and effect if this case is dismissed or converted to a case under another chapter of the Bankruptcy Code.

6. This order is effective and enforceable upon entry. The 14-day stay requirement of Fed.R.Bankr.P. 4001(a)(3) is waived.

7. Bank of America, N.A. is further granted relief from the stay to engage in loan modification discussions or negotiations or other settlement discussions with the Debtor and to enter into a loan modification with the Debtor.

XXX END OF ORDER XXX

RESPECTFULLY SUBMITTED:

ROSE L. BRAND & ASSOCIATES, P.C.

By: /s/Andrew P. Yarrington

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APPROVED BY:

Approved via Email on 9/18/2018

Peter A. Keys

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Approved Via Email on 9/11/2018

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Chapter 7 Trustee

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Copied to:

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